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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
KIM, KEVIN Y	

ART UNIT	PAPER NUMBER
3714	

MAIL DATE	DELIVERY MODE
05/12/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/782,590	MOTHWURF ET AL.	
	Examiner	Art Unit	
	KEVIN Y. KIM	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 March 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *47-54 and 56-97* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *47-54 and 56-97* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. Applicant's amendment filed 3/16/2009 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 47-54 and 56-97 are rejected under 35 U.S.C. 103(a) as being unpatentable over Acres (US 6,371,852) in view of Acres et al (US 5,752,882), Olsen (US 6,217,448), Stupak et al (US 5,851,147), and Pease et al (US 5,326,104).

4. Regarding claims 47-50, 52-54, 61, 66 and 68, Acres '852 discloses a jackpot system for an allocation of wins from at least one jackpot to players playing at a plurality of gaming positions. The jackpot system comprises a computer network associated with the gaming positions (col. 3, lines 7-16), a Computing engine included in the computer network and having a memory for receiving inputs from the gaming positions and at least one output for communicating information to the players at the gaming positions (col. 5, lines 10-31), a pay table associated with the jackpot having a plurality of possible winning entries and respective wins associated with each of the winning entries (col. 7, lines 55-61). Acres '852 does not explicitly disclose a selection generator and a means for comparing the generated selection with the pay table. However, since Acres '852 discloses reel slot game machines (Fig. 2; col. 6, lines 42- 43), and since it would

have been well known that when activate the spin button of the slot game machine, an outcome is randomly selected and is compared with the winning entries of a pay table, Acres ‘852 obviously encompasses the well-known selection generator for generate a selection outcome and means to compare the selected outcome with the winning entries of the game table as claimed. Acres ‘852 does not explicitly disclose that the pay table is capable of being configured by an operator. However, Acres ‘882 discloses configuring the pay table in accordance with the reconfiguring command (col. 3, lines 3-12), and Olson discloses allowing the operator to configure the pay table associated with the jackpot (col. 13, lines 51-54; and col. 22, lines 9-15).

Furthermore, Pease teaches paytables that are configurable at a system workstation (column 21, lines 62-65). Stupak teaches jackpots with associated (and player-chosen) paytables (column 6, lines 1-9).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the pay table associated with the jackpot being capable of being configured by an operator as taught by Acres '882 and Olsen to the jackpot system of Acres ‘852 along with the explicit teaching of a jackpot paytable and configurable paytables of Pease and Stupak in order to allow the operator to control paybacks of the jackpot game system.

5. Regarding claim 51, Acres ‘852 discloses inputting the amount bet at a gaming machine (col. 5, lines 10-20).

6. Regarding claims 56-60: using a random number generator used in conjunction with a counter to receive seed numbers from the counter, and varying the probability of

winning in response to amount of bet, or in response to time of day would have been well known to a person of ordinary skill in the art at the time the invention was made.

7. Regarding claim 62, Acres '852 discloses transferring wins to a plurality of gaming stations (col. 7, lines 51-64).

8. Regarding claims 63-65, Acres '852 discloses depositing a portion of wager to the jackpot (col. 7, lines 43-44). Further, as to claim 65, winning of one jackpot will trigger into a further jackpot game would have been well known to a person of ordinary skill in the art at the time the invention was made.

9. Regarding claim 67: implementing a duplicating system to double check the accuracy of the main system would have been well known to a person of ordinary skill in the art at the time the invention was made.

10. Regarding claims 69-83, refer to discussion in claims 47-68 above.

11. Regarding to claim 84: Acres '882 discloses wherein an item of information relating to the identity of the gaming position comprises an identification of a slot machine (col. 10, lines 56-57; and col. 16, lines 50-56).

12. Regarding claim 85, Acres '882 discloses wherein an item of information relating to a player attribute comprises player name or membership of a group (col. 27, line 56; and col. 14, lines 4-5).

13. Regarding claim 86, Acres '852 discloses wherein an item of information relating to player activity level comprises rate of play (col. 5, lines 19-20).

14. Regarding claim 87, Olsen discloses wherein an item of information relating to an external event comprises a manual input from an operator (col. 13, lines 51-53).

15. Regarding claim 88, Olsen discloses wherein the indicator comprises a loudspeaker (col. 5, lines 54-67).

16. Regarding claim 89, relating a win to a jackpot amount via the size of bet would have been well-known and obvious matter of design choice.

17. Regarding claim 90, Acres '882 discloses a plurality of slot machines are adjacent connected to an associated floor controller over a network (Fig. 1), Acres '882 obviously discloses an associated player at an adjacent slot machine.

18. Regarding claims 91 and 92, the sequence of numbers defining a winning entry is an obvious design choice, as any person in charge of defining the paytables as discussed above would be able to set any type of winning combination desired, including but not limited to random and consecutive numbers.

19. In re claims 93-95, please see the rejections discussed above, *mutatis mutandis*.

20. Re claims 96-97, see the above rejections, *mutatis mutandis*.

Response to Arguments

21. Applicant's arguments filed 3/16/2009 have been fully considered but they are not persuasive. In response to applicant's argument that the examiner has combined an excessive number of references, reliance on a large number of references in a rejection does not, without more, weigh against the obviousness of the claimed invention. See *In re Gorman*, 933 F.2d 982, 18 USPQ2d 1885 (Fed. Cir. 1991).

Regarding the selection generator, Acres I has been discussed regarding such. Furthermore, the examiner would like to point out that as Acres teaches a reel slot

game. When the player starts the game (by pulling a handle or pressing a spin button), the game makes a selection of symbols to display. Inherently, if the displayed symbols are a winning combination, the combination must be compared to a paytable in order to properly award a player.

Regarding the arguments towards paytables, the examiner notes that the claims merely disclose a paytable. Clearly, at least Stupak disclose a paytable (figure 3). One of the outcomes of the actual game is a royal flush, which results in a jackpot payment of 2000 coins. In the event 5 coins are bet, a royal flush jackpot is awarded of $10,000. This is clearly a jackpot.

Concerning configurable paytables, Acres II has been thoroughly discussed. The claimed invention only states a jackpot paytable being configurable by an operator. As discussed in the cited portions of Acres II (and the portion noted by the applicant), the operator may reconfigure the jackpot payout schedule. One skilled in the art would thus find it obvious to reconfigure any paytable through this system, as it uses the same system, and a paytable is just a mapping of outcomes to reward values, an obvious design choice.

Re Olsen and game play at tables, while Olsen does not explicitly disclose table gameplay, Stupak teaches a gaming device which plays a poker game. As is well known in the art, a poker game may be played at tables. As such, one skilled in the art would find it obvious to implement similar paytables and/or jackpots in a table game of poker, as it yields the predictable result of a game with customizable paytables and jackpots.

Re Stupak, the claims of the art were not cited in the rejection of the application. Still, the meaning of the word jackpot can be defined as "any outstanding award." As further explanation, referring to figure 3, there are indeed game outcomes with associated rewards. However, there is also the case of a max bet that yields a royal flush outcome. This outcome thus rewards the player with a jackpot of $10,000 (or 40,000 coins). One skilled in the art would agree that this is a jackpot in the customary meaning of the word. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "a special progressive jackpot") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Regarding Pease, the jackpot system and selection generator have been discussed above.

Conclusion

22. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KEVIN Y. KIM whose telephone number is (571)270-3215. The examiner can normally be reached on Monday-Thursday, alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on 571-272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Supervisory Patent Examiner, Art Unit 3714

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